



\$ 2662

THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Andrew R. Osborn

GROUP ART UNIT: 2662

SERIAL NO.: 09/982,601

EXAMINER: To Be Assigned

FILED: October 18, 2001

FOR: METHOD OF COMMUNICATING ACROSS AN  
OPERATING SYSTEM

RECEIVED  
DEC 06 2002

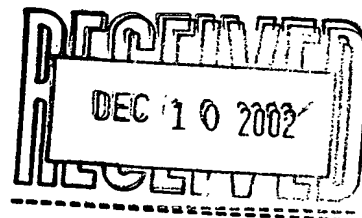
ATTORNEY DOCKET NO.: 65,270-005

Technology Center 2600

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d)

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:



The following is a Petition to Make Special for the above-identified Patent Application. The grounds and conditions for granting this Petition, such that this Application may be afforded special status, are found in 37 C.F.R. § 1.102(d) and MPEP 708.02(VIII).

Under 37 C.F.R. § 1.102(d), the petition fee set forth in 37 C.F.R. § 1.17(i), of \$130.00 is enclosed.

As provided for in MPEP 708.02, Applicant agrees to the special examining procedure detailed therein. In particular, under MPEP 708.02(VIII), entitled SPECIAL EXAMINING PROCEDURE FOR CERTAIN NEW APPLICATIONS – ACCELERATED EXAMINATION, the following is required:

(A) a Petition to Make Special accompanied by the fee set forth in 37 C.F.R. § 1.17(i);

(B) that all claims are directed to a single invention, or if the office determines that all the claims presented are not obviously directed to a single invention, applicant will make an election without traverse as a prerequisite to the grant of the special status;

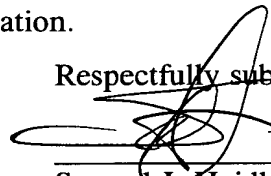
(C) a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, chemical abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(D) one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(E) a detailed discussion of the references which discussion points out, with the particularity required by 37 C.F.R. § 1.111(b) and (c), how the claimed subject matter is patentable over the references.

In support of this petition, Applicant submits the Declaration of Samuel J. Haidle. This Declaration sets forth the requirements as detailed above in MPEP 708.02(VIII)(B)-(E), including Applicant's basis for making these contentions. Accordingly, Applicant requests that this Petition to Make Special be granted and the Application undergo accelerated examination.

~~Respectfully submitted,~~



Samuel J. Haidle, Registration No. 42,619  
Attorneys for Applicant  
Howard & Howard Attorneys, P.C.  
The Pinehurst Office Center, Suite 101  
39400 Woodward Avenue  
Bloomfield Hills, MI 48304-5151  
(248) 645-1483

Date: November 26, 2002

#### **CERTIFICATE OF MAILING**

I hereby certify that the enclosed **Petition to Make Special Under 37 C.F.R. 1.102(D)** and **check in the amount of \$130.00** is being deposited with the United States Postal Service as first-class mail, postage prepaid, in an envelope addressed to the **Assistant Commissioner for Patents and Trademarks, Washington, DC 20231**, on this **26th** day of **November, 2002**.



Brenda J. Hughes



44

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Andrew R. Osborn  
SERIAL NO.: 09/982,601  
FILED: October 18, 2001  
FOR: METHOD OF COMMUNICATING ACROSS AN  
OPERATING SYSTEM

GROUP ART UNIT: 2662

EXAMINER: To Be Assigned

ATTORNEY DOCKET NO.: 65,270-005

**DECLARATION IN SUPPORT OF PETITION  
TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d)**

Assistant Commissioner for Patents  
Washington, D.C. 20231

**RECEIVED**

DEC 06 2002

Dear Sir:

Technology Center 2600

**DECLARATION OF SAMUEL J. HAIDLE**

Samuel J. Haidle declares as follows:

1. I am a member of the law firm of Howard & Howard Attorneys, P.C. and the attorney for the Applicant in the above-identified Patent Application. I am a member of the Bar of the State of Michigan and a registered patent attorney, with Registration No. 42,619. I make this Declaration in support of Applicant's Petition to Make Special in the above-identified Patent Application.

2. The subject matter of the above-identified Patent Application relates to a method of communicating across an operating system using a plurality of processes and a plurality of memory sources disposed within one or more processors. The method includes the steps of detecting an event within the system and extracting an initial process address and an initial data address from one of the memory sources to determine a location of an initial process and initial data. Once the operating system knows which process is to be executed and which data to use, the operating system executes executable code of the initial process located at the initial process address. Next, a second process address and a second data address are extracted from one of the

memory sources to determine a location of second data to use in a second process prior to the completion of the execution of the executable code of the initial process.

3. I have made a careful and thorough search of the prior art before the filing of the subject patent Application in the United States. The following patents were uncovered in that search:

4,276,594	5,953,340
4,757,497	6,012,101
5,276,789	6,016,464
5,296,936	6,021,495
5,557,778	6,052,380
5,594,870	6,061,685
5,596,723	6,067,585
5,617,418	6,067,595
5,784,557	
5,802,391	
5,933,607	

4. In addition, the subject application was filed under the Patent Cooperation Treaty ("PCT") and the International Searching Authority of the PCT conducted their own independent search. The International Searching Authority uncovered the following U.S. Patents:

5,991,820	5,737,605
5,386,566	

5. During the pre-filing pre-examination search, various U.S. classes and subclasses were searched as set forth below:

Classification	Sub-Class
370	445; 446; 400; 395; 405; 484; 401; 468
702	79
709	250-253; 220
713	201
710	2; 11; 129
345	440
365	230.05
711	149; 150; 118
707	10; 203

As stated above, a search was also made by the International Searching Authority of the PCT. It is therefore submitted that the requirement of a pre-examination search under MPEP 708.02 (VIII)(C) is satisfied.

6. The closest prior art reference to the subject Application, as uncovered by Applicant, are United States Patent Nos. 4,276,594 (the '594 patent), 5,276,789 (the '789 patent), and 5,296,936 (the '936 patent).

7. The PCT Application proceeded directly to the International Preliminary Examination Report stage, wherein the International Preliminary Examining Authority determined, independently of Applicant, that none of the references were particularly relevant and that all the claims were patentable.

8. Each of the prior art references uncovered by both Applicant and the International Searching Authority have been submitted with Information Disclosure Statements in the subject application. Applicant has also included a copy of the '594 patent, the '789 patent and the '936 patent for the Commissioner's convenience. It is therefore respectfully submitted that section MPEP 708.02(VIII)(D) is satisfied.

9. In accordance with MPEP 708.02 (VIII)(E), a detailed discussion of the most pertinent references, which points out how the claimed subject matter is patentable over the references, is as follows.

10. The '594 patent discloses a digital computer with the capability of incorporating multiple central processing units (CPU's), utilizes an address and data bus between each CPU and from one to fifteen intelligent composite memory and input/output modules (MIO). Data is transferred to and from each MIO and the CPU synchronously by a bus during one phase of a three phase clocking cycle. All data transfers to and from the MIO's and external devices occur at time phases separate from the first time phase in which the CPU communicates with the MIO's. Therefore, the computational speed of any CPU is independent of the quantity of data transferred.

11. The '594 patent does not disclose or suggest extracting a second process address from one of the memory sources to determine a location of a second process to execute prior to the completion of the execution of the executable code of

the initial process in such a way as to optimize the CPU's resources and expedite the transfer of data.

12. The '789 patent discloses a system that retrieves a list of the nodes within a computer network and their interconnections from a database. The system automatically lays out and graphically displays the topology of the computer network system. The system also automatically updates the view, as new nodes become available in the database.

13. The '789 patent in no way discloses or suggests a method of communicating across an operating system using a plurality of processes and a plurality of memory sources disposed within one or more processors including the step of extracting a second process address from one of the memory sources to determine a location of a second process to execute prior to the completion of the execution of the executable code of the initial process in such a way as to optimize the CPU's resources and expedite the transfer of data.

14. The '936 patent discloses a high-speed communication network. The network includes a server and a plurality of workstations connected to the server. The workstations have receiver ports that are driven by data and control signals. The control signals are transmitted from an upstream transmitter port. The workstations rely on handshaking signals to ripple upstream to the server or to an upstream workstation output port. The handshaking signals include a header burst which indicate information about the relevant data. Specifically, the header burst may include a bid address of a workstation and control words to indicate specific packet information.

15. The '936 patent does not disclose or suggest extracting a second process address from one of the memory sources to determine a location of a second process to execute prior to the completion of the execution of the executable code of the initial process in such a way as to optimize the CPU's resources and expedite the transfer of data.

16. Neither the '594 patent, the '789 patent, nor the '936 patent disclose each and every step of the subject invention as set forth in independent Claims

1 and 35. In particular, neither the '594 patent, the '789 patent, nor the '936 patent disclose a unique and novel method of communicating across an operating system using a plurality of processes and a plurality of memory sources disposed within one or more processors. The method includes the steps of detecting an event within the system; extracting an initial process address from one of the memory sources to determine a location of an initial process in response to detecting the event; extracting an initial data address from one of the memory sources to determine a location of initial data to be used in the initial process in response to detecting the event; and executing executable code of the initial process located at the initial process address. The method further includes the steps of extracting a second process address from one of the memory sources to determine a location of a second process to execute prior to the completion of the execution of the executable code of the initial process.

17. The International Preliminary Examining Authority, as stated in their International Preliminary Examination Report, concurs with Applicant's determination that the prior art does not disclose the specific method steps outlined above. In other words, the International Preliminary Examining Authority states that Claims 1-35 of the subject application meet the criteria set out in PCT Article 33(2)-(4) such that these claims are novel, include an inventive step, and meet the requirements for industrial applicability.

18. The remaining references cited by both Applicant and the International Searching Authority of the PCT likewise fail to disclose each and every method step of the subject invention as claimed.

19. Therefore, Applicant respectfully submits that the subject invention, as claimed in independent Claims 1 and 35, is not anticipated by any of the cited prior art patents.

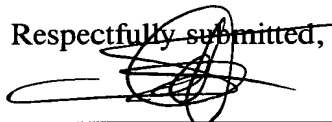
20. Additionally, any combination of the cited prior art references does not include each and every element of the subject method as recited in independent Claims 1 and 35. Hence, Applicant submits that independent Claims 1 and 35 are not obvious in light of the cited prior art patents.

21. The remaining claims, namely Claims 2-34, each depend upon the novel features of Claim 1 such that these claims are also deemed unique and non-obvious in light of the cited prior art patents.

22. Applicant submits that all claims are directed to a single invention or if the office determines that the claims presented are not obviously directed to a single invention, applicant agrees to make an election without traverse, as required by MPEP 708.02(VIII)(B).

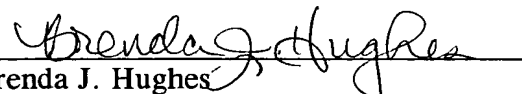
23. I further declare that all statements made herein of my own personal knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-referenced Application or any patent issuing thereon.

Respectfully submitted,

  
\_\_\_\_\_  
Samuel J. Haidle, Registration No. 42,619  
Attorneys for Applicant  
Howard & Howard Attorneys, P.C.  
The Pinehurst Office Center, Suite 101  
39400 Woodward Avenue  
Bloomfield Hills, MI 48304-5151  
(248) 645-1483

**CERTIFICATE OF MAILING**

I hereby certify that the enclosed **Declaration of Samuel J. Haidle** is being deposited with the United States Postal Service as first-class mail, postage prepaid, in an envelope addressed to the **Assistant Commissioner for Patents and Trademarks, Washington, DC 20231**, on this **26th** day of **November, 2002**.

  
\_\_\_\_\_  
Brenda J. Hughes